



Arkansas

State Revenue Tax Quarterly

Mike Huckabee, Governor

Department of Finance & Administration Revenue Division

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Act 94 of 2005 Allows an Income Tax Deduction for Contributions Made to a Health Savings Account

Governor Huckabee has signed legislation that adopts the federal income tax changes adopting Health Savings Accounts, and related Retirement Plans, made pursuant to the federal Medicare Prescription Drug, Improvement and Modernization Act of 2003.

A Health Savings Account (HSA) is a tax-exempt trust or custodial account that you set up with a U.S. financial institution (such as a bank or an insurance company) in which you can save money exclusively for future medical expenses. This account must be used in conjunction with a High Deductible Health Plan. You may enjoy several benefits from having a Health Savings Account.

- The interest or other earnings on the assets in the account are tax free.
- You can claim a tax deduction for contributions you make even if you do not itemize your deductions on Form AR 1000.
- Distributions may be tax-free if you pay qualified medical expenses.
- The contributions remain in your account from year to year until you use them.

- A Health Savings Account is "portable" so it stays with you if you change employers or leave the work force.

Act 94 of 2005 adopts federal law regarding contributions to and taxation of Health Savings Accounts. The Arkansas income tax changes for HSA's are effective for tax years beginning January 1, 2004 and later; therefore, the changes affect income tax returns currently being filed. Taxpayers who participated in a HSA should show the HSA contribution on line 23 of their 2004 Arkansas Income Tax Return.



Weiss v. McFadden Refunds

The Arkansas Supreme Court issued its decision in *Weiss v. McFadden*, on December 9, 2004. This decision awarded state income tax refunds to retirees who were not allowed consideration for state tax paid on contributions to public or private employment-related retirement systems, plans, or programs.

To date, taxpayers have submitted 11,247 refund claim forms, and refunds to-

taling \$12,870,895.24 have been refunded to taxpayers.

Taxpayer questions should be directed to class counsel, Greg Campbell or Mark Nichols at g_campbell@alltel.net or (501) 978-4352. Claim forms are available at all local state revenue offices and at DFA's website:



http://www.arkansas.gov/dfa/income_tax/tax_individual.html

Tax Amnesty Program

The State Tax Penalty and Interest Amnesty Program (Tax Amnesty Program) was enacted during the 2nd Extraordinary Session of 2003 of the Arkansas Legislature. The Tax Amnesty Program was an opportunity for all taxpayers to file and pay taxes not previously reported that were due and payable prior to January 1, 2003, without penalty, interest, or criminal prosecution.

To participate in the program, taxpayers submitted applications for amnesty and their tax returns between July 1, 2004 and September 30, 2004. All delinquent state taxes had to be paid on or before December 31, 2004.

A total of 1,384 returns were received from the applicants. Several taxpayers filed for more than one year as reflected in the number of applications and the number of returns received. Numerous individuals and businesses filed all years prior to 2004 in order to get current on their taxes.

The total number of accepted applicants was 595. This is summarized by type of tax in the chart below:

Type of tax	Number of applicants	%
Corporation tax	57	10%
Individual Income tax	483	81%
Estate & Fiduciary tax	5	1%
Sales tax	47	8%
Withholding tax	3	1%
Total	595	100%

In summary, the Tax Amnesty Program generated \$3,556,683 in additional revenues.

Emergency Rule 2005-4: Sales of Heavy Equipment-Decals

Effective July 1, 2005, this Rule implements Act 1693 of 2005, which requires a dealer to place a visible red, blue, or green decal on a piece of new or used heavy equipment at the time of sale.

RED: Equipment is taxable and dealer collected the tax.
BLUE: Equipment is exempt from tax under the farming exemption.
GREEN: Equipment is exempt from tax under any other tax exemption (i.e., sale for resale, manufacturing, timber harvesting, etc.).

A dealer must remove an old decal from used equipment and affix a new decal on the equipment before it is resold. If the dealer fails to remove the old decal, the Director shall assess the following penalties:

1st offense--\$100;
2nd offense--\$200; and
3rd and subsequent offenses--\$500

This rule clarifies the collection of sales and use tax, by the Department of Finance and Administration, on sales of heavy equipment and establishes the procedure for affixing decals in connection with such sales as required by Act 1693 of 2005.

Fulmer v. Weiss Update

The Pulaski County Circuit Court ordered that refunds be made to taxpayers who did not owe the IRS but filed Arkansas Individual Income Tax returns jointly or married filing separately with a spouse who owed the IRS, and the refund of the couple was paid to the federal government pursuant to the IRS's blanket levy for the federal tax liability of only one spouse.



Claims for refund must be filed on an approved claim form between January 15, 2005 and August 15, 2005.

Claimants may be required to furnish documentation to support the claim for refund. In computing the refund allowable to a claimant, the DFA shall allocate the refund based on information supplied on the original return and the claim form. Interest will be paid on these refunds from the original due date of the return until the day the refund is processed. To date, eight claims have been filed and \$7,680.55 has been refunded to Arkansas taxpayers.

Claimants may call 1-800-882-9275 (outside Pulaski County and in Arkansas) or 501-682-1100 (inside Pulaski County or out of Arkansas), or visit a local Revenue Office. Claim forms and filing information are available at:



http://www.arkansas.gov/dfa/income_tax/tax_individual.html.

(Note: Class members are individual married taxpayers whose joint Arkansas income tax refunds were paid to the IRS for federal tax debts owed by only one of the spouses for tax years 1991 through 1997.)

Sales Tax Business Closures Update

Act 46 of 2003 Second Extraordinary Session gave the Department of Finance and Administration (DFA) the ability to close a business for non-payment of sales and use taxes. The Act became effective July 1, 2004. Any taxpayer not reporting and/or paying the tax due for any two report periods in a 24-month period will become eligible for business closure when it fails to file and/or pay the third month.

The Sales and Use Tax Section began working on business closure activity in late 2004 with approximately 4,800 accounts eligible for closure. Attempts are being made to contact each business in an effort to resolve its delinquent account status.

A business that is not available for contact or does not submit necessary information to either clear their delinquency, make payment of tax due, or provide payment plan request documentation is issued a business closure order. DFA's field tax investigators hand deliver the closure order to the business and are available to assist the taxpayer during the five days given to comply with the sales and use tax reporting requirements. The Sales and Use Tax Section has collected over \$6,000,000 in delinquent state and local sales taxes as a result of direct taxpayer contact for purposes of business closure.

To date, 2,568 business closure orders have been delivered by DFA's field tax investigators. Of these, 16 businesses failed to comply and signs were posted indicating the business was closed as a result of non-payment of sales tax. Additionally, 341 businesses paid in full, 880 businesses were found to be closed, 18 businesses filed bankruptcy, and 224 businesses completed Installment Payment Plan Agreements.



Locations for Three Revenue Offices

Helena	DeQueen	Booneville
429 Cherry St. Helena, AR 72342	110 N. DeQueen Ave. DeQueen, AR 71832	101 N. Broadway Booneville, AR 72927

CHANGES IN SALES & USE TAX

Please Call (501) 682-7104 For Periodic Updates
Regarding Local Sales and Use Taxes
http://www.arkansas.gov/dfa/excise_tax_v2/st_index.html

Name	Code	Effective Date	%	Recent Action
Farmington	72-16	3/1/05	2.00	Increase
DeWitt	01-02	4/1/05	3.50	Increase
Sherwood	60-07	4/1/05	1.00	Decrease
Cleveland Cty.	13-00	4/1/05	1.25	Decrease

Internet Information

Business and Personal Tax Page
http://www.arkansas.gov/dfa/dfa_taxes.html

Telephone Information

Corporate Income Tax	(501) 682-4775
Taxpayer Assistance for Individual Income Tax	(501) 682-1100 1-800-882-9275
Automated Refund Inquiry & Tele-tax Information	(501) 682-0200 1-800-438-1992
Sales and Use Tax	682-1895
Taxpayer Assistance Office	501-682-7751

Calendar of Due Dates

04/14/05—Employee monthly W/H tax, for prior month (EFT filers only); 1st Qtr. estimated income tax (based on calendar year filer) (EFT filers only)

04/15/05—Employee monthly W/H tax, for prior month; AR income tax returns (partnership, LLC, individual) (Based on calendar year filers; return due date 3½ months after end of tax year.); 1st Qtr. estimated income tax (based on calendar year filer); Miscellaneous tax (except Severance taxes)

04/20/05—Sales & Use Tax

04/25/05—Motor fuel tax (except IFTA); Severance tax

05/02/05—IFTA

05/02/05—Employee monthly W/H tax, for prior month (EFT filers only)

05/16/05—Employee monthly W/H tax, for prior month; Miscellaneous tax (except Severance taxes)

05/20/05—Sales & Use Tax

05/25/05—Motor fuel tax (except IFTA); Severance tax;

06/01/05—Franchise tax

06/14/05—Employee monthly W/H tax, for prior month (EFT filers only); 2nd Qtr. estimated income tax (Based on calendar year filer) (EFT filers only);

06/15/05—Employee monthly W/H tax, for prior month; 2nd Qtr. estimated income tax (Based on calendar year filer); Miscellaneous tax (except Severance taxes)

06/20/05—Sales & Use Tax

06/27/05—Motor fuel tax (except IFTA); Severance tax;

The Arkansas State Revenue Tax Quarterly is a publication of the Taxpayer Assistance Office. The newsletter is produced and distributed electronically to tax professionals, businesses, and organizations operating in Arkansas. To be added or deleted from the e-mail list, contact Jan Moore, phone (501) 682-7751, write to Taxpayer Assistance Office, Ledbetter Building, Room 2460, P. O. Box 1272, Little Rock, Arkansas 72203-1272, or send an e-mail to jan.moore@rev.state.ar.us.